

Application No.: 10/767,249
Filing Date: January 28, 2004

REMARKS

Claims 29-55 are currently pending and presented for examination. Applicants respectfully request that the Examiner consider the terminal disclaimer and the references provided herewith in the accompanying Information Disclosure Statement.

Information Disclosure Statement/Related Application

Applicants have filed herewith an IDS that includes 25 references. In particular, references listed as 1-13 on the form PTO/SB/08 Equivalent filed herewith are references that were cited during the prosecution of U.S. Patent Application No. 09/606,369, which is the abandoned parent of this application. References numbered 14-16 were cited in an Office Action issued August 21, 2008 in connection with U.S. Patent Application No. 10/767,476, which is currently pending, and which claims priority to the same parent as the instant application. Reference 17 is a division of U.S. Patent No. 6,429,027, which is the great grandparent of the instant application. Reference 18 is a published PCT application that was provided in the Information Disclosure Statement mailed September 10, 2004 but which was incorrectly cited on the accompanying form PTO/SB/08 Equivalent. Finally, references 19-25 include a copy of European Patent No. 1141712 as well as documents that were filed in connection with the opposition of this patent. European Patent No. 1141712 is the European equivalent of U.S. Patent No. 6,858,394, which is the grandparent of the instant application.

Obviousness-type Double Patenting

In the advisory action issued October 8, 2008, the Examiner withdrew all rejections of record except the obviousness-type double patenting rejection of claims 29-51 over claims 1-5 and 9 of U.S. Patent No. 6,858,394. Although Applicants maintain that claims 29-51 are not obvious over claims 1-5 and 9 of U.S. Patent No. 6,858,394, in order to move the instant claims to allowance, Applicants filed a terminal disclaimer on October 17, 2008. Accordingly, Applicants respectfully request that the Examiner withdraw the rejection of claims 29-51 under the doctrine of obviousness-type double patenting.

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No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicant is not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicant has made any disclaimers or disavowals of any subject matter supported by the present application.

CONCLUSION

Applicants believe that all outstanding issues in this case have been resolved and that the present claims are in condition for allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is invited to contact the undersigned at the telephone number provided below in order to expedite the resolution of such issues.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

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